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## **More Questions and Answers:**

### **■ How long does a mediation last?**

A small claims mediation session usually lasts about 30 minutes to one hour. It can be shorter or last for a longer period of time. If the mediation is not finished, it may be possible to continue it on another day if you and the mediator agree that it would be productive.

### **■ Is mediation expensive?**

There is no separate fee for mediation. The fee for filing a small claims action includes the cost of mediation. Mediation may reduce your legal expenses by helping you avoid a contested trial.

### **■ Do I need a lawyer?**

A lawyer can be very helpful, especially if you do not know the laws that govern your case. You are under no obligation to have a lawyer. Even if you do not bring a lawyer with you, you may want to consult a lawyer before coming to court or mediating.

### **■ What happens if we don't agree?**

If you are unable to reach an agreement, you will have a trial before a judge. The mediator does not talk to the judge or make any recommendation to the court about your case.

# **Small Claims**

# **Mediation**

**State of Maine**

**Judicial Branch**

## **Court Alternative Dispute Resolution Service (CADRES)**

RR 1, Box 310

West Bath, Maine 04530-9704

Tel. 207-442-0227

Fax. 207-442-0228

Email: [diane.kenty@state.me.us](mailto:diane.kenty@state.me.us)

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## Why Try Mediation?

- You are required to try mediation if you are involved in a small claims case and cannot agree with the other party on how to settle it.
- A judge may waive the mediation requirement if there is a good reason to do so.
- You can mediate on the same day as your hearing or request to mediate on a day before your hearing.
- Mediation allows you to make choices about what you feel is in your best interest. It is a way of helping people reach an out-of-court settlement.
- The mediator is impartial and trained to help you talk about your needs and differences so that you can work things out yourselves.
- You and the other party make the decisions in mediation. You are under no obligation to reach an agreement, and you do not give up your right to a court hearing.
- Any proposals you make during mediation cannot be used against you if you do not reach agreement. Mediation is a place to try to resolve your case.

## What Happens in Mediation?

- At the start of mediation, the mediator will explain how mediation works and will answer any questions you might have.
- You may choose to mediate in a separate area from the other party if there are significant reasons not to be together in the same room.
- The mediator will ask each of you to describe what happened and how you want to resolve your case.
- The mediator may ask to meet with you alone (with your lawyer if you have one) so you can talk more comfortably. You may ask to take a break or talk to your lawyer at any time.
- If you reach an agreement, the mediator will write up the terms of the settlement for you to sign. Later, you may present the agreement to the judge. The judge will review it and sign a court order.
- If you do not reach agreement, the mediator completes a form to tell the court that your case needs a trial. The judge will decide your case.

## What Are the Benefits to Mediation?

- You have a chance to present your ideas in an informal, private setting, with the support and advice of your lawyer if you have one. It is a time to be heard and to listen to others.
  - In mediation, you have a better opportunity to control the outcome of your dispute.
  - Mediation may help you reach an agreement that will let you get on with your life and possibly keep you out of court in the future.
  - By discussing your options in mediation, you may discover choices you did not know you had.
  - Mediation may help you improve communication, understand the situation and find better ways to deal with your differences.
  - What you say in mediation cannot be used as evidence in Court, according to Rule 408(b) of the Maine Rules of Evidence. If a mediator learns about child abuse or neglect or that someone is in immediate danger of physical harm, the mediator must report that information to authorities.
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